

By Meier
MEIER

S.J.R. No. 18

A JOINT RESOLUTION

proposing an amendment to the Texas Constitution to provide for a Supreme Court of Criminal Appeals with nine justices and to permit the court to sit in panels of three justices.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Article V, Section 1, of the Texas Constitution, be amended to read as follows:

"Section 1. The judicial power of this State shall be vested in one Supreme Court, in one Supreme Court of Criminal Appeals, in Courts of Civil Appeals, ~~{in-a-Court-of-Criminal-Appeals;}~~ in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

"The name 'Court of Criminal Appeals' shall hereafter mean the Supreme Court of Criminal Appeals.

~~{The-Criminal-District-Court-of-Galveston-and-Harris-Counties-shall-continue-with-the-district-jurisdiction-and-organization-now-existing-by-law-until-otherwise-provided-by-law;}~~

"The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto."

Sec. 2. That Article V, Section 4, of the Texas Constitution, be amended to read as follows:

"Section 4. The Supreme Court of Criminal Appeals shall

1 consist of eight Associate Justices and one Chief Justice [~~five~~
2 ~~Judges, one of whom shall be Presiding Judge, a majority of whom~~
3 ~~shall constitute a quorum, and the concurrence of three Judges~~
4 ~~shall be necessary to a decision of said court~~]. The Associate
5 Justices [~~said Judges~~] shall have the same qualifications and
6 receive the same salaries as the Associate Justices of the Supreme
7 Court[~~r~~], and the Chief Justice shall have the same qualifications
8 and receive the same salary as the Chief Justice of the Supreme
9 Court. The Chief Justice and the Associate Justices [~~They~~] shall
10 be elected by the qualified voters of the state at a general
11 election and shall hold their offices for a term of six years. In
12 case of a vacancy in the office of a Justice [~~Judge~~] of the Supreme
13 Court of Criminal Appeals, the Governor shall, with the advice and
14 consent of the Senate, fill said vacancy by appointment until the
15 next succeeding general election.

16 "The Judges of the Court of Criminal Appeals who may be in
17 office at the time when this Amendment takes effect shall become
18 Justices [~~Judges~~] of the Supreme Court of Criminal Appeals and
19 continue in office until the expiration of the term of office for
20 which each has been elected or appointed under the present
21 Constitution and laws of this state, and until his successor shall
22 have been elected and qualified. The Presiding Judge of the
23 present Court of Criminal Appeals shall become the Chief Justice of
24 the Supreme Court of Criminal Appeals under the same conditions.

25 "The two members of the Commission [~~of Appeals~~] in aid of the
26 Court of Criminal Appeals who may be in office at the time when
27 this Amendment takes effect shall become Justices [~~Judges~~] of the

1 Supreme Court of Criminal Appeals. In addition, the Governor
2 shall, with the advice and consent of the Senate, appoint the
3 eighth and ninth Justices of the Supreme Court of Criminal Appeals
4 from a list of five nominees submitted by the present Court of
5 Criminal Appeals. Among the four Justices described in this
6 paragraph, at least one shall hold his office for a term of two
7 years, at least one for a term of four years, and at least one for
8 a term of six years, [and shall hold their offices, one for a term
9 of two years and the other for a term of four years,] beginning the
10 first day of January of the next odd-numbered year following the
11 adoption of this Amendment and until their successors are elected
12 and qualified. Said Justices [Judges] shall by agreement or
13 otherwise designate the incumbent for each of the terms mentioned,
14 but there shall in no case be more than a total of three Justices
15 of the Supreme Court of Criminal Appeals beginning their terms on
16 the same first day of January.

17 ~~[The Governor shall designate one of the five Judges as~~
18 ~~Presiding Judge and at the expiration of his term and each six~~
19 ~~years thereafter a Presiding Judge shall be elected.]~~

20 "The Supreme Court of Criminal Appeals shall be authorized to
21 sit at the designation of the Chief Justice in panels of three
22 Justices for the purpose of hearing cases. In such instances, the
23 presence of two such Justices shall constitute a quorum and the
24 concurrence of two Justices shall be necessary for a decision. The
25 Chief Justice shall also have the authority to convene the Court
26 for proceedings en banc for the transaction of all other business
27 as well as the hearing of cases. In such instances, the presence

1 of five Justices shall constitute a quorum and the concurrence of
2 five Justices shall be necessary for a decision. The Supreme Court
3 of Criminal Appeals shall also be empowered to appoint
4 Commissioners in aid of the Supreme Court of Criminal Appeals to
5 sit in aid of said Court as provided by law.

6 "The existing statutes and rules governing the operation of
7 the Court of Criminal Appeals shall be brought forward and applied
8 to the operation of the Supreme Court of Criminal Appeals.
9 Adjustments and adaptations to the system of three-judge panels
10 described in the preceding paragraph shall be prescribed by
11 additional rules of the Court, unless the Legislature should direct
12 otherwise."

13 Sec. 3. That Article V, Section 5, of the Texas
14 Constitution, be amended to read as follows:

15 "Section 5. The Supreme Court of Criminal Appeals shall have
16 appellate jurisdiction coextensive with the limits of the state in
17 all criminal cases of whatever grade, with such exceptions and
18 under such regulations as may be prescribed by law.

19 "Subject to such regulations as may be prescribed by law, the
20 Supreme [The] Court of Criminal Appeals and the Justices [Judges]
21 thereof shall have the power to issue the writs [write] of habeas
22 corpus, mandamus, procedendo, prohibition, certiorari, and [under
23 such regulations as may be prescribed by law, issue] such other
24 writs as may be necessary to protect [enforce] its [own]
25 jurisdiction, or enforce its judgments, or expedite the
26 administration of criminal justice in the State of Texas. The
27 Court [of Criminal Appeals] shall have the power upon affidavit or

otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

"The Supreme Court of Criminal Appeals may sit for the transaction of business at any time during the year and each term shall begin and end with each calendar year ~~from the first Monday in October to the last Saturday in September in each year, at the State Capitol~~. The Supreme Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

"The Clerk of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall continue in office for the term of his appointment.

"The Supreme Court of Criminal Appeals shall appoint a court administrator who shall perform the duties assigned to him by the Court and who shall hold his office for a term of four years unless sooner removed by the Court for good cause entered of record on the minutes of said Court."

Sec. 4. Should the Legislature enact legislation in anticipation of the adoption of this amendment, such law shall not be invalid by reason of its anticipatory character.

Sec. 5. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1977, at which election the ballots shall be printed to provide for voting for or against the proposition: "The

- 1 constitutional amendment providing for a Supreme Court of Criminal
- 2 Appeals with nine justices and permitting the court to sit in
- 3 panels of three justices."

1 By: Meier

S.J.R. No. 18

2 (In the Senate - Filed January 14, 1977; January 17, 1977,
3 read first time and referred to Committee on Jurisprudence;
4 February 23, 1977, reported adversely, with favorable Committee
5 Substitute; February 23, 1977, sent to printer.)

6 COMMITTEE SUBSTITUTE FOR S.J.R. NO. 18

By: Meier

7 SENATE JOINT RESOLUTION

8 proposing an amendment to Article V of the Texas Constitution to
9 provide for a Court of Criminal Appeals with nine judges and to
10 permit the court to sit in panels of three judges.

11 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 Section 1. That Article V, Section 1 of the Texas
13 Constitution, be amended to read as follows:

14 "Section 1. JUDICIAL POWER; COURTS IN WHICH VESTED. The
15 judicial power of this State shall be vested in one Supreme Court,
16 in one Court of Criminal Appeals, in Courts of Civil Appeals, ~~in a~~
17 ~~Court of Criminal Appeals~~ in District Courts, in County Courts,
18 in Commissioners Courts, in Courts of Justices of the Peace, and in
19 such other courts as may be provided by law.

20 ~~"[The Criminal District Court of Galveston and Harris~~
21 ~~Counties shall continue with the district jurisdiction and~~
22 ~~organization now existing by law until otherwise provided by law.]~~

23 "The Legislature may establish such other courts as it may deem
24 necessary and prescribe the jurisdiction and organization thereof,
25 and may conform the jurisdiction of the district and other inferior
26 courts thereto."

27 Sec. 2. That Article V, Section 4, of the Texas
28 Constitution, be amended to read as follows:

29 "Section 4. COURT OF CRIMINAL APPEALS; JUDGES. The
30 Court of Criminal Appeals shall consist of eight Associate Judges
31 and one Presiding Judge ~~[five judges, one of whom shall be~~
32 ~~Presiding Judge, a majority of whom shall constitute a quorum, and~~
33 ~~the concurrence of three judges shall be necessary to a decision of~~
34 ~~said court].~~ The Associate [said] Judges shall have the same
35 qualifications and receive the same salaries as the Associate
36 Justices of the Supreme Court, and the Presiding Judge shall have
37 the same qualifications and receive the same salary as the Chief
38 Justice of the Supreme Court. The Presiding Judge and the
39 Associate Judges ~~[They]~~ shall be elected by the qualified voters
40 of the state at a general election and shall hold their offices for
41 a term of six years. In case of a vacancy in the office of a
42 Judge of the Court of Criminal Appeals, the Governor shall, with
43 the advice and consent of the Senate, fill said vacancy by
44 appointment until the next succeeding general election.

45 ~~"[The Judges of the Court of Criminal Appeals who may be in~~
46 ~~office at the time when this Amendment takes effect shall become~~
47 ~~Judges of the Court of Criminal Appeals and continue in office~~
48 ~~until the expiration of the term of office for which each has been~~
49 ~~elected or appointed under the present Constitution and laws of~~
50 ~~this state, and until his successor shall have been elected and~~
51 ~~qualified]~~

52 ~~"The two members of the Commission of Appeals in aid of the~~
53 ~~Court of Criminal Appeals who may be in office at the time when~~
54 ~~this Amendment takes effect shall become Judges of the Court of~~
55 ~~Criminal Appeals and shall hold their offices, one for a term of~~
56 ~~two years and the other for a term of four years, beginning the~~
57 ~~first day of January following the adoption of this Amendment and~~
58 ~~until their successors are elected and qualified. Said Judges~~
59 ~~shall by agreement or otherwise designate the incumbent for each of~~
60 ~~the terms mentioned]~~

~~"The Governor shall designate one of the five Judges as Presiding Judge and at the expiration of his term and each six years thereafter a Presiding Judge shall be elected."~~

"The Court of Criminal Appeals may sit in panels of three Judges at the designation of the Presiding Judge for the purpose of hearing cases. In a panel of three Judges, two Judges shall constitute a quorum and the concurrence of two Judges shall be necessary for a decision. The Presiding Judge shall convene the Court en banc for the transaction of all other business and may convene the Court en banc for the purpose of hearing cases. The Court must sit en banc during proceedings involving capital punishment and other cases as required by law. When convened en banc, five Judges shall constitute a quorum and the concurrence of five Judges shall be necessary for a decision. The Court of Criminal Appeals may appoint Commissioners in aid of the Court of Criminal Appeals as provided by law."

Sec. 3. That Article V, Section 5 of the Texas Constitution, be amended to read as follows:

"Section 5. JURISDICTION OF COURT OF CRIMINAL APPEALS; TERMS OF COURT; CLERK. The Court of Criminal Appeals shall have appellate jurisdiction coextensive with the limits of the state in all criminal cases of whatever grade, with such exception and under such regulations as may be prescribed by law.

~~"Subject to such regulations as may be prescribed by law, regarding criminal law matters, the [The] Court of Criminal Appeals and the Judges thereof shall have the power to issue the writs [write] of habeas corpus, mandamus, procedendo, prohibition, certiorari, and [under such regulations as may be prescribed by law, issue] such other writs as may be necessary to protect [enforce] its [own] jurisdiction, or enforce its judgments, or expedite the administration of criminal justice in the State of Texas. The Court [of Criminal Appeals] shall have the power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction."~~

"The Court of Criminal Appeals may sit for the transaction of business at any time during the year and each term shall begin and end with each calendar year [from the first Monday in October to the last Saturday in September in each year, at the State Capitol]. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

"The Clerk of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall continue in office for the term of his appointment."

Sec. 4. The following transition provisions apply when this amendment takes effect:

(1) The judges of the court of criminal appeals at the time this amendment takes effect remain judges of the court of criminal appeals and continue in office until the expiration of the term of office for which each has been elected or appointed under the constitution as it now exists and until his successor shall have been duly qualified.

(2) Each of the two members of the commission of appeals in aid of the court of criminal appeals as constituted under Section 1a, Chapter 462, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 1811e, Vernon's Texas Civil Statutes), who are in office at the time this amendment takes effect, shall become a judge of the court of criminal appeals and shall hold his office, one for a term of three years and one for a term of five years, beginning on January 1, 1978, and until his successor shall have been duly qualified. On or before January 1, 1978, the

governor shall designate which commissioner shall hold office for which term.

(3) Two judges shall be elected at the first general election occurring after January 1, 1978, for a regular term of six years beginning January 1, 1979, and until their successors are duly qualified. The court of criminal appeals may appoint commissioners as provided by law. Any commissioner appointed after January 1, 1978, may not seek election as a judge of the court of criminal appeals at the first general election after January 1, 1978.

Sec. 5. Should the legislature enact legislation in anticipation of the adoption of this amendment, such law shall not be invalid by reason of its anticipatory character.

Sec. 6. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1977, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment increasing the size of the court of criminal appeals to nine judges, and permitting the court to sit in panels of three judges."

Sec. 7. If adopted, the constitutional amendment proposed in this resolution becomes effective on January 1, 1978.

* * * * *

Austin, Texas
February 23, 1977

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Jurisprudence, to which was referred S.J.R. No. 18, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Schwartz, Chairman

BY: MEIER

S.J.R. NO. 18

SUBSTITUTE THE FOLLOWING FOR S.J.R. NO. 18

BY: MEIER

~~C.S.S.J.R.~~ NO. 18

Meier

SENATE
A JOINT RESOLUTION
Article V of

proposing an amendment to the Texas Constitution to provide for a
~~the~~ Court of Criminal Appeals with nine ~~Justices~~ ^{Judges} and to permit
the court to sit in panels of three ~~Justices~~ ^{Judges}.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Article V, Section 1 ^e of the Texas
Constitution, be amended to read as follows:

JUDICIAL POWER; COURTS IN WHICH VESTED.
"Section 1. [^] The judicial power of this State shall be vested
in one Supreme Court, in one ~~Supreme~~ Court of Criminal Appeals,
in Courts of Civil Appeals, ~~[in a Court of Criminal Appeals;]~~
in District Courts, in County Courts, in Commissioners Courts, in
Courts of Justices of the Peace, and in such other courts as may
be provided by law.

~~"The name 'Court of Criminal Appeals' shall hereafter read
the Superior Court of Criminal Appeals."~~

~~"[The Criminal District Court of Galveston and Harris Counties
shall continue with the district jurisdiction and organization now
existing by law until otherwise provided by law.]"~~

"The Legislature may establish such other courts as it may
deem necessary and prescribe the jurisdiction and organization
thereof, and may conform the jurisdiction of the district and other
inferior courts thereto."

Sec. 2. That Article V, Section 4, of the Texas Constitu-
tion, be amended to read as follows:

COURT OF CRIMINAL APPEALS; JUDGES.
"Section 4. [^] The ~~Superior~~ Court of Criminal Appeals shall
consist of eight Associate ~~Justices~~ ^{Judges} and one Presiding ~~Justice~~ ^{Judge}
[five Judges; one of whom shall be Presiding ¹/₂ Judge; a majority of
whom shall constitute a quorum; and the concurrence of three Judges

Proof 2-23-77

C.S.S. J.

shall-be-necessary-to-a-decision-of-said-court]. The Associate
~~Judges~~ ^{Said Judge} shall have the same qualifications and
receive the same salaries as the Associate Justices of the Supreme
Court ~~and~~, and the Presiding ~~Justice~~ ^{Judge} shall have the same qualifica-
tions and receive the same salary as the Chief Justice of the
Supreme Court. The Presiding ~~Justice~~ ^{Judge} and the Associate ~~Justices~~ ^{Judges}
[They] shall be elected by the qualified voters of the state
a general election and shall hold their offices for a term of
six years. In case of a vacancy in the office of a ~~Justice~~
~~Justice~~ ^{Judge} of the ~~Supreme~~ Court of Criminal Appeals, the Governor
shall, with the advice and consent of the Senate, fill said
vacancy by appointment until the next succeeding general election.

" [The Judges of the Court of Criminal Appeals who may be in
office at the time when this Amendment takes effect shall become
Judges of the Court of Criminal Appeals and continue in office--
until the expiration of the term of office for which each has been
elected or appointed under the present Constitution and laws of
this state; and until his successor shall have been elected and
qualified.]

" [The two members of the Commission of Appeals in aid of the
Court of Criminal Appeals who may be in office at the time when
this Amendment takes effect shall become Judges of the Court of
Criminal Appeals and shall hold their offices; one for a term of--
two years and the other for a term of four years; beginning the
first day of January following the adoption of this Amendment--
and until their successors are elected and qualified.-- Said Judges
shall by agreement or otherwise designate the incumbent for each

1 of the terms mentioned: ²

2 "The Governor shall designate one of the five Judges as
3 Presiding Judge and at the expiration of his term and each six
4 years thereafter a Presiding Judge shall be elected."

5 "The ~~Supreme~~ Court of Criminal Appeals may sit in panels
6 of three ~~Judges~~ ^{Judges} at the designation of the Presiding ~~Justice~~ ^{Judge} for
7 the purpose of hearing cases. In a panel of three ~~Justices~~ ^{Judges}, two
8 ~~Justices~~ ^{Judges} shall constitute a quorum and the concurrence of two
9 ~~Justices~~ ^{Judges} shall be necessary for a decision. The Presiding ~~Justice~~ ^{Judge}
10 shall convene the Court en banc for the transaction of all other
11 business and may convene the Court en banc for the purpose of
12 hearing cases. The Court must sit en banc during proceedings
13 involving capital punishment and other cases as required by law.
14 When convened en banc, five ~~Justices~~ ^{Judges} shall constitute a quorum
15 and the concurrence of five ~~Justices~~ ^{Judges} shall be necessary for a
16 decision. The ~~Supreme~~ Court of Criminal Appeals may appoint
17 Commissioners in aid of the ~~Supreme~~ Court of Criminal Appeals
18 as provided by law."

19 Sec. 3. That Article V, Section 5, of the Texas Constitu-
20 tion, be amended to read as follows:

JURISDICTION OF COURT OF CRIMINAL APPEALS, TERMS OF COURT;
CLERK.

21 "Section 5. The ~~Supreme~~ Court of Criminal Appeals shall
22 have appellate jurisdiction coextensive with the limits of the
23 state in all criminal cases of whatever grade, with such exceptions
24 and under such regulations as may be prescribed by law. ^{3/4}

25 "Subject to such regulations as may be prescribed by law,
26 regarding criminal law matters, the ~~Supreme~~ [the] Court of Criminal
27 Appeals and the ~~Justices~~ ^{Judges} thereof shall have the power to

C.S.S.J.R. No. 18

1 issue the writs [writ] of habeas corpus, mandamus, procedendo,
2 prohibition, certiorari, and [under such regulations as may be pre-
3 scribed by law; issue] such other writs as may be necessary to
4 protect [enforce] its [own] jurisdiction, or enforce its judge-
5 ments, or expedite the administration of criminal justice in the
6 State of Texas. The Court [of Criminal Appeals] shall have the
7 power upon affidavit or otherwise to ascertain such matters of
8 fact as may be necessary to the exercise of its jurisdiction.

9 "The ~~Superior~~ Court of Criminal Appeals may sit for the
10 transaction of business at any time during the year and each term
11 shall begin and end with each calendar year [from the first Monday
12 in October to the last Saturday in September in each year; at the
13 State Capitol]. The ~~Superior~~ Court of Criminal Appeals shall
14 appoint a clerk of the court who shall give bond in such manner
15 as is now or may hereafter be required by law, and who shall hold
16 his office for a term of four years unless sooner removed by the
17 court for good cause entered of record on the minutes of said
18 court.

19 "The Clerk of the Court of Criminal Appeals who may be in
20 office at the time when this Amendment takes effect shall continue
21 in office for the term of his appointment."

22 Sec. 4. The following transition provisions apply when
23 this amendment takes effect:

24 (1) The judges of the Court of Criminal Appeals at the
25 time ⁴ this amendment takes effect remain ^{judges} ~~justices~~ of the ~~Superior~~
26 Court of Criminal Appeals and continue in office until the expira-
27 tion of the term of office for which each has been elected or

1 appointed under the constitution as it now exists and until his
2 successor shall have been duly qualified.

3 (2) Each of the two members of the ~~Commission of Appeals~~
4 in aid of the ~~Court of Criminal Appeals~~ as constituted under
5 Section 1a, Chapter 462, Acts of the 62nd Legislature, Regular
6 Session, 1971, as amended (Article 1811e, Vernon's Texas Civil
7 Statutes), who are in office at the time this amendment takes
8 effect, shall become a ~~justice~~^{Judge} of the ~~Supreme~~^{Supreme} Court of Criminal
9 Appeals and shall hold his office, one for a term of three years
10 and one for a term of five years, beginning on January 1, 1978,
11 and until his successor shall have been duly qualified. On or
12 before January 1, 1978, the ²governor shall designate which commis-
13 sioner shall hold office for which term.

14 ^{Insert} (3) Two ~~Justices~~^{Judges} shall be elected at the first general
15 ^{am. #1} election occurring after January 1, 1978, for a regular term of
16 six years beginning January 1, 1979, and until their successors
17 are duly qualified. The ~~Supreme~~^{Supreme} Court of Criminal Appeals may
18 appoint Commissioners as provided by law. Any Commissioner ap-
19 pointed after January 1, 1978, may not seek election as a ~~Justice~~^{Judge}
20 of the ~~Supreme~~^{Supreme} Court of Criminal Appeals at the first general
21 election after January 1, 1978.

22 Sec. 5. Should the legislature enact legislation in
23 anticipation of the adoption of this amendment, such law shall
24 not be invalid by reason of its anticipatory character.

25 Sec. 6. The foregoing constitutional amendment shall be
26 submitted to a vote of the qualified electors of this state at
27 an election to be held on the first Tuesday after the first Monday
28 in November, 1977, at which election the ballots shall be printed
29 to provide for voting for or against the proposition: "The
30 constitutional amendment ~~changing the name of the Court of Criminal~~
31 ~~Appeals, increasing the size of the Superior Court of Criminal~~

1 appeals to nine ~~justices~~ ^{judges}, and permitting the court to sit in
2 panels of three ~~justices~~ ^{judges}."

3 Sec. 7. If adopted, the constitutional amendment proposed
4 in this resolution becomes effective on January 1, 1978.
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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 8, 1977

Honorable A. R. Schwartz, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Joint Resolution No. 18
By: Meier

Sir:

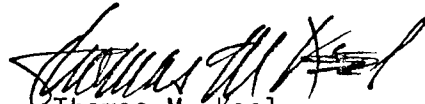
In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Joint Resolution No. 18 (proposing an amendment to the Texas Constitution to provide for a Supreme Court of Criminal Appeals with nine justices and to permit the court to sit in panels of three justices) to be as follows:

The bill would make no appropriation but would constitute prior legislative authorization for an appropriative request.

The probable cost of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>General Revenue Fund</u>
1978	\$ 135,104
1979	86,180
1980	86,180
1981	86,180
1982	86,180

Similar annual costs would continue as long as the provisions of the bill are in effect.


Thomas M. Keel
Director

Source: LBB Staff

Serna

Floor Amendment Number 1 to C.S.S.J.R. 18.

Amend C.S.S.J.R. 18 by striking § 4(3) and substituting in lieu thereof the following:

(3) On or after January 1, 1978, the governor shall, with the advice and consent of the senate, appoint two qualified persons as judges of the ~~Court of Criminal Appeals~~. The judges appointed by the governor shall hold office from the date of appointment, and shall be nominated to the senate in the manner of appointments made during the recess of the senate as provided in Article IV, Section 12² of the Texas Constitution. Judges so appointed by the governor shall hold office until the first general election occurring after January 1, 1978, and until their successors are duly qualified. Judges elected at the first general election occurring after ⁶/₆ January 1, 1978, shall hold office for terms of six years beginning January 1, 1979, and until their successors are duly qualified. ✓

a

ADOPTED

MAR 1 1977

Betty King
Secretary of the Senate

Insert am. #1

Amend the caption to conform to the
body of the bill

ADOPTED

MAR 1 1977

Betty King
Secretary of the Senate

Mar. 1 1977 Engrossed
Patsy Law
Engrossing Clerk

By: Meier

S.J.R. No. 18

SENATE JOINT RESOLUTION

proposing an amendment to Article V of the Texas Constitution to provide for a court of criminal appeals with nine judges and to permit the court to sit in panels of three judges.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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~~"[The Criminal District Court of Galveston and Harris Counties shall continue with the district jurisdiction and organization now existing by law until otherwise provided by law.]~~

"The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto."

Sec. 2. That Article V, Section 4, of the Texas Constitution, be amended to read as follows:

"Section 4. COURT OF CRIMINAL APPEALS; JUDGES. The Court of Criminal Appeals shall consist of eight Associate Judges and one Presiding Judge ~~[five judges, one of whom shall be Presiding~~

1 ~~Judge, a majority of whom shall constitute a quorum and the~~
 2 ~~concurrence of three Judges shall be necessary to a decision of~~
 3 ~~said court].~~ The Associate [Said] Judges shall have the same
 4 qualifications and receive the same salaries as the Associate
 5 Justices of the Supreme Court, and the Presiding Judge shall have
 6 the same qualifications and receive the same salary as the Chief
 7 Justice of the Supreme Court. The Presiding Judge and the
 8 Associate Judges [~~They~~] shall be elected by the qualified voters
 9 of the state at a general election and shall hold their offices for
 10 a term of six years. In case of a vacancy in the office of a Judge
 11 of the Court of Criminal Appeals, the Governor shall, with the
 12 advice and consent of the Senate, fill said vacancy by appointment
 13 until the next succeeding general election.

14 " ~~[The Judges of the Court of Criminal Appeals who may be in~~
 15 ~~office at the time when this Amendment takes effect shall become~~
 16 ~~Judges of the Court of Criminal Appeals and continue in office~~
 17 ~~until the expiration of the term of office for which each has been~~
 18 ~~elected or appointed under the present Constitution and laws of~~
 19 ~~this state, and until his successor shall have been elected and~~
 20 ~~qualified]~~

21 " ~~The two members of the Commission of Appeals in aid of the~~
 22 ~~Court of Criminal Appeals who may be in office at the time when~~
 23 ~~this Amendment takes effect shall become Judges of the Court of~~
 24 ~~Criminal Appeals and shall hold their offices, one for a term of~~
 25 ~~two years and the other for a term of four years, beginning the~~
 26 ~~first day of January following the adoption of this Amendment and~~

1 ~~until their successors are elected and qualified. Said judges~~
2 ~~shall by agreement or otherwise designate the incumbent for each of~~
3 ~~the terms mentioned.~~

4 ~~"The Governor shall designate one of the five judges as~~
5 ~~Presiding Judge and at the expiration of his term and each six~~
6 ~~years thereafter a Presiding Judge shall be elected.]~~

7 "The Court of Criminal Appeals may sit in panels of three
8 Judges at the designation of the Presiding Judge for the purpose of
9 hearing cases. In a panel of three Judges, two Judges shall
10 constitute a quorum and the concurrence of two Judges shall be
11 necessary for a decision. The Presiding Judge shall convene the
12 Court en banc for the transaction of all other business and may
13 convene the Court en banc for the purpose of hearing cases. The
14 Court must sit en banc during proceedings involving capital
15 punishment and other cases as required by law. When convened en
16 banc, five Judges shall constitute a quorum and the concurrence of
17 five Judges shall be necessary for a decision. The Court of
18 Criminal Appeals may appoint Commissioners in aid of the Court of
19 Criminal Appeals as provided by law."

20 Sec. 3. That Article V, Section 5 of the Texas Constitution,
21 be amended to read as follows:

22 "Section 5. JURISDICTION OF COURT OF CRIMINAL APPEALS; TERMS
23 OF COURT; CLERK. The Court of Criminal Appeals shall have
24 appellate jurisdiction coextensive with the limits of the state in
25 all criminal cases of whatever grade, with such exceptions and
26 under such regulations as may be prescribed by law.

1 "Subject to such regulations as may be prescribed by law,
 2 regarding criminal law matters, the [The] Court of Criminal Appeals
 3 and the Judges thereof shall have the power to issue the writs
 4 [writ] of habeas corpus, mandamus, procedendo, prohibition,
 5 certiorari, and ~~[under such regulations as may be prescribed by~~
 6 ~~law, issue]~~ such other writs as may be necessary to protect
 7 ~~[enforce]~~ its ~~[own]~~ jurisdiction, or enforce its judgements, or
 8 expedite the administration of criminal justice in the State of
 9 Texas. The Court ~~[of Criminal Appeals]~~ shall have the power upon
 10 affidavit or otherwise to ascertain such matters of fact as may be
 11 necessary to the exercise of its jurisdiction.

12 "The Court of Criminal Appeals may sit for the transaction of
 13 business at any time during the year and each term shall begin and
 14 end with each calendar year ~~[from the first Monday in October to~~
 15 ~~the last Saturday in September in each year, at the State Capitol].~~
 16 The Court of Criminal Appeals shall appoint a clerk of the court
 17 who shall give bond in such manner as is now or may hereafter be
 18 required by law, and who shall hold his office for a term of four
 19 years unless sooner removed by the court for good cause entered of
 20 record on the minutes of said court.

21 "The Clerk of the Court of Criminal Appeals who may be in
 22 office at the time when this Amendment takes effect shall continue
 23 in office for the term of his appointment."

24 Sec. 4. The following transition provisions apply when this
 25 amendment takes effect:

26 (1) The judges of the court of criminal appeals at the time

1 this amendment takes effect remain judges of the court of criminal
2 appeals and continue in office until the expiration of the term of
3 office for which each has been elected or appointed under the
4 constitution as it now exists and until his successor shall have
5 been duly qualified.

6 (2) Each of the two members of the commission of appeals in
7 aid of the court of criminal appeals as constituted under Section
8 1a, Chapter 462, Acts of the 62nd Legislature, Regular Session,
9 1971, as amended (Article 1811e, Vernon's Texas Civil Statutes),
10 who are in office at the time this amendment takes effect, shall
11 become a judge of the court of criminal appeals and shall hold his
12 office, one for a term of three years and one for a term of five
13 years, beginning on January 1, 1978, and until his successor shall
14 have been duly qualified. On or before January 1, 1978, the
15 governor shall designate which commissioner shall hold office for
16 which term.

17 (3) On or after January 1, 1978, the governor shall, with
18 the advice and consent of the senate, appoint two qualified persons
19 as judges of the court of criminal appeals. The judges appointed
20 by the governor shall hold office from the date of appointment and
21 shall be nominated to the senate in the manner of appointments made
22 during the recess of the senate as provided in Article IV, Section
23 12 of the Texas Constitution. Judges so appointed by the governor
24 shall hold office until the first general election occurring after
25 January 1, 1978, and until their successors are duly qualified.
26 Judges elected at the first general election occurring after

1 January 1, 1978, shall hold office for terms of six years beginning
2 January 1, 1979, and until their successors are duly qualified.

3 Sec. 5. Should the legislature enact legislation in
4 anticipation of the adoption of this amendment, such law shall not
5 be invalid by reason of its anticipatory character.

6 Sec. 6. The foregoing constitutional amendment shall be
7 submitted to a vote of the qualified electors of this state at an
8 election to be held on the first Tuesday after the first Monday in
9 November, 1977, at which election the ballots shall be printed to
10 provide for voting for or against the proposition: "The
11 constitutional amendment increasing the size of the court of
12 criminal appeals to nine judges, and permitting the court to sit in
13 panels of three judges."

14 Sec. 7. If adopted, the constitutional amendment proposed in
15 this resolution becomes effective on January 1, 1978.

COMMITTEE REPORT

The Honorable Bill Clayton
Speaker of the House of Representatives

4/6/77
(date)

Sir:

We, your COMMITTEE ON CONSTITUTIONAL AMENDMENTS , to whom was referred SJR 18
have had the same under consideration and beg to report back with the recommendation that it (measure)

- () do pass, without amendment.
() do pass, with amendment(s).
(X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested on 4/6/77 and is attached as part of this report.
(date)

~~Author's fiscal statement attached.~~

~~The Committee recommends that this measure be placed on the (Local / Consent) Calendar.~~

This measure () proposes new law.
() amends existing law.

House Sponsor of Senate Measure HENDRICKS

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Von Dohlen	X			
Jones	X			
Bryant	X			
Clark, B.				X
Close	X			
Hendricks	X			
Johnson				X
Robbins	X			
Schieffer				X

Total:
6 aye
0 nay
0 present, not voting
3 absent

Tom Van Dohlen
CHAIRMAN
Reynolds
COMMITTEE COORDINATOR

BILL ANALYSIS

Background Information

The Court of Criminal Appeals is the highest state court for criminal appeals and is composed of five judges, one presiding judge and four associate justices and two permanent commissioners. Also, three special commissioners serve the court during various times of the year. The authorization for the special commissioners is in Article 1811 (e), Vernon's Annotated Texas Statutes. The special commissioners include two retired judges and one justice of a Court of Civil Appeals.

The Court of Criminal Appeals faced a record case load in 1975. 1,864 new cases were docketed that year and represented a 21% increase over the 1,546 cases docketed in 1974. The number of cases was 20% higher than the five year average of 1,552 cases. The Court wrote 1,869 opinions, including dissents and concurrences in 1975. 32% of these were authored opinions.

Delay in deciding criminal appeals is costly to society and defeats the goals of the judicial system. It often requires from two to three years for a criminal case to reach final disposition in the Court of Criminal Appeals.

Purpose of the Resolution

To amend the Constitution to provide for a Court of Criminal Appeals with nine judges and to permit the Court to sit in panels of three judges.

Section-by-section Analysis

Section 1. Amends Article V, Section 1 of the Constitution to provide for editorial change in the judicial power section of the Constitution.

Section 2. Amends Article V, Section 4 to provide that the Court of Criminal Appeals shall consist of eight judges and one Presiding Judge. Also provides that the Presiding Judge shall have the same qualifications and receive the same salary as the Chief Justice of the Supreme Court. It further provides that the Court of Criminal Appeals may sit in panels of three judges at the designation of the Presiding Judge. Provides that the Presiding Judge shall convene the court en banc for the purpose of hearing capital punishment cases and other cases as required by law. Provides that the concurrence of five judges shall be necessary for a decision.

Section 3. Amends Article V, Section 5 of the Constitution to provide that the Court of Criminal Appeals shall have power to issue writs of habeas corpus, mandamus, procedendo, prohibition, certiorari, and other writs that are necessary to protect its jurisdiction. Also provides that the Court of Criminal Appeals will sit for a term of one year and that the term shall begin and end with each calendar year.

Section 4. Transition provision which provides the following:

1. The judges sitting on the Court of Criminal Appeals at the time the amendment takes effect remain judges and continue in office until the expiration of their terms.
2. The two commissioners in aid of the Court become judges of the Court of Criminal Appeals when the amendment takes effect and shall hold office, one for a term of three years and one for a term of five years.
3. Provides that on or after January 1, 1978, the Governor shall appoint two qualified persons as judges of the Court of Criminal Appeals. Judges so appointed shall hold office until the first general election occurring after January 1, 1978.

Section 5. Provides that anticipatory legislation adopted by the legislature before the amendment takes effect shall be valid.

Section 6. Provides that the constitutional amendment shall be submitted to the vote of the qualified electors at the general election on the first Tuesday after the first Monday in November, 1977.

Section 7. Provides that the constitutional amendment, if adopted, shall become effective on January 1, 1978.

Comparison of Substitute to Original Resolution

C.S.S.J.R. 18 differs from S.J.R. 18 in the following particulars:

1. Deletes the term "associate" in referring to the eight judges other than the presiding judge;
2. Provides that designation of the panels be by rule of the Court and not by determination of the Presiding Judge;
3. Provides that the Court may determine by rule those instances where the Court shall convene en banc; except for capital cases, where they must sit en banc;
4. Removes the language regarding issuance of writs to "expedite the administration of criminal justice in the state"; and
5. Provides that the commissioners who become judges shall designate the incumbent for each term by agreement and shall notify the Governor thereof.

Summary of Committee Action

Public notice having been posted in compliance with Rule V, Section 14, the committee considered S.J.R. 18 in public hearing on April 6, 1978. The committee adopted a complete committee substitute and voted to report it back favorably to the floor of the house by a vote of six ayes and no nays.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 6, 1977

Honorable Tim Von Dohlen, Chairman
Committee on Constitutional Amendments
House of Representatives
Austin, Texas

In Re: Senate Joint Resolution No. 18, as engrossed
By: Meier

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of SJR No. 18, as engrossed, (proposing an amendment to Article V of the Texas Constitution to provide for a court of criminal appeals with nine judges and to permit the court to sit in panels of three judges) to be as follows:

1. The Resolution would make no appropriation but would constitute prior legislative authorization for an appropriative request.
2. The Resolution, should it be approved by the electorate, would expand the size of the Court of Criminal Appeals from five to nine judges.

It is assumed that legislation would provide for immediate implementation (December 1, 1977).

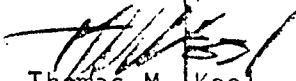
The estimate includes a one-time-only cost for publication estimated at \$72,500 in fiscal year 1978.

The Resolution would entail an additional five state employees.

3. The probable cost of implementing the provisions of the Resolution during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>General Revenue Fund</u>
1978	\$ 135,104
1979	86,180
1980	86,180
1981	86,180
1982	86,180

4. Similar annual costs to the State would continue as long as the provisions of the Resolution are in effect.
5. No fiscal implication or additional cost to local government attributable to the Resolution, should it be approved, is anticipated.


Thomas M. Keel
Director

Source: Court of Criminal Appeals; LBB staff

DATE MAY 11 1977

READ AND ADOPTED

Betty Murray
CHIEF CLERK
HOUSE OF REPRESENTATIVES

By: Meier

S.J.R. No. 18

Substitute the following for S.J.R. No. 18

By HENDRICKS

C.S.S.J.R. No. 18

SENATE JOINT RESOLUTION

proposing an amendment to Article V of the Texas Constitution to provide for a court of criminal appeals with nine judges and to permit the court to sit in panels of three judges.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Article V, Section 1 of the Texas Constitution, be amended to read as follows:

"Section 1. JUDICIAL POWER; COURTS IN WHICH VESTED. The judicial power of this State shall be vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of Civil Appeals, [~~in a Court of Criminal Appeals;~~] in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

~~"[The Criminal District Court of Galveston and Harris Counties shall continue with the district jurisdiction and organization now existing by law until otherwise provided by law.]"~~ *OK* "The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto."

Sec. 2. That Article V, Section 4^e of the Texas Constitution, be amended to read as follows:

"Section 4. COURT OF CRIMINAL APPEALS; JUDGES. The Court of Criminal Appeals shall consist of eight Judges and one Presiding Judge [~~five Judges; one of whom shall be Presiding Judge; a~~ ^{1/2} ~~majority of whom shall constitute a quorum; and the concurrence of~~

Type & proof this

5-16-77

~~three-Judges-shall-be-necessary-to-a-decision-of-said-court~~]. The
[Said] Judges shall have the same qualifications and receive the
same salaries as the Associate Justices of the Supreme Court, and
the Presiding Judge shall have the same qualifications and receive
the same salary as the Chief Justice of the Supreme Court. The
Presiding Judge and the Judges [:-They] shall be elected by the
qualified voters of the state at a general election and shall hold
their offices for a term of six years. In case of a vacancy in the
office of a Judge of the Court of Criminal Appeals, the Governor
shall, with the advice and consent of the Senate, fill said vacancy
by appointment until the next succeeding general election.
TYPE NEW PARAGRAPH ON PAGE 3 BEFORE STRIKE OUTS
"[The-Judges-of-the-Court-of-Criminal-Appeals-who-may-be-in
office-at-the-time-when-this-Amendment-takes-effect-shall-become
Judges-of-the-Court-of-Criminal-Appeals-and-continue-in-office-
until-the-expiration-of-the-term-of-office-for-which-each-has-been
elected-or-appointed-under-the-present-Constitution-and-laws-of
this-state;-and-until-his-successor-shall-have-been-elected-and
qualified-"

"The-two-members-of-the-Commission-of-Appeals-in-aid-of-the
Court-of-Criminal-Appeals-who-may-be-in-office-at-the-time-when-
this-Amendment-takes-effect-shall-become-Judges-of-the-Court-of
Criminal-Appeals-and-shall-hold-their-offices;-one-for-a-term-of
two-years-and-the-other-for-a-term-of-four-years;-beginning-the
first-day-of-January-following-the-adoption-of-this-Amendment-and
until-their-successors-are-elected-and-qualified---Said-Judges
shall-by-agreement-or-otherwise-designate-the-incumbent-for-each
of-the-terms-mentioned-"

~~"The-Governor-shall-designate-one-of-the-five-Judges-as
Presiding-Judge-and-at-the-expiration-of-his-term-and-each-six
years-thereafter-a-Presiding-Judge-shall-be-elected.]"~~

*Put in
p. 2*
"For the purpose of hearing cases, the Court of Criminal
Appeals may sit in panels of three Judges, the designation thereof
to be under rules established by the Court. In a panel of three
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of two Judges shall be necessary for a decision. The Presiding
Judge, under rules established by the Court, shall convene the
Court en banc for the transaction of all other business and may
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ment and other cases as required by law. When convened en banc,
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Sec. 3. That Article V, Section 5 of the Texas Constitution,
be amended to read as follows:

"Section 5. JURISDICTION OF COURT OF CRIMINAL APPEALS; TERMS
OF COURT; CLERK. The Court of Criminal Appeals shall have
appellate jurisdiction coextensive with the limits of the state
in all criminal cases of whatever grade, with such exceptions and
under such regulations as may be prescribed by law." $\frac{3}{4}$

"Subject to such regulations as may be prescribed by law, regarding criminal law matters, the [The] Court of Criminal Appeals and the Judges thereof shall have the power to issue the writs [writ] of habeas corpus, mandamus, procedendo, prohibition, certiorari, and [under-such-regulations-as may-be-prescribed-by-law;-issue] such other writs as may be necessary to protect [enforce] its [own] jurisdiction or enforce its judgments.
^{Court} The ~~Court of Criminal Appeals~~ shall have the power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

"The Court of Criminal Appeals may sit for the transaction of business at any time during the year and each term shall begin and end with each calendar year [from-the-first-Monday-in-October-to-the last-Saturday-in-September-in-each-year;-at-the-State-Capitol]. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

"The Clerk of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall continue in office for the term of his appointment."

Sec. 4. The following transition provisions apply when this amendment takes effect:

(1) The ~~Judges~~ of the court of criminal appeals at the time this amendment takes effect remain judges of the court of criminal ^{4/5} appeals and continue in office until the expiration of the term of office for which each has been elected or appointed under the

constitution as it now exists and until his successor shall have been duly qualified.

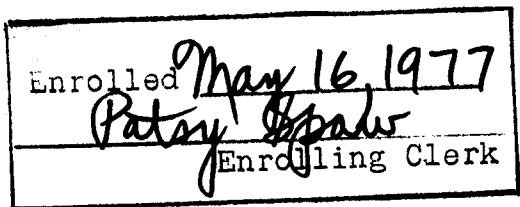
(2) Each of the two members of the commission of appeals in aid of the court of criminal appeals as constituted under Section 1a, Chapter 462, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 1811e, Vernon's Texas Civil Statutes), who are in office at the time this amendment takes effect, shall become a judge of the court of criminal appeals and shall hold his office, one for a term of three years and one for a term of five years, beginning on January 1, 1978, and until his successor shall have been duly qualified. Said judges shall by agreement or otherwise designate the incumbent for each of the terms mentioned and shall inform the governor of such designation within 30 days of the effective date of this amendment.

(3) On or after January 1, 1978, the governor shall, with the advice and consent of the senate, appoint two qualified persons as judges of the court of criminal appeals. The judges appointed by the governor shall hold office from the date of appointment and shall be nominated to the senate in the manner of appointments made during the recess of the senate as provided in Article IV, Section 12 of the Texas Constitution. Judges so appointed by the governor shall hold office until the first general election occurring after January 1, 1978, and until their successors are duly qualified. Judges elected at the first general election occurring after ⁵/₆ January 1, 1978, shall hold office for terms of six years beginning January 1, 1979, and until their successors are duly qualified.

Sec. 5. Should the legislature enact legislation in anticipation of the adoption of this amendment, such law shall not be invalid by reason of its anticipatory character.

Sec. 6. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1977, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment increasing the size of the court of criminal appeals to nine judges, and permitting the court to sit in panels of three judges."

Sec. 7. If adopted, the constitutional amendment proposed in this resolution becomes effective on January 1, 1978.



S.J.R. No. 18

SENATE JOINT RESOLUTION

proposing an amendment to Article V of the Texas Constitution to provide for a court of criminal appeals with nine judges and to permit the court to sit in panels of three judges.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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~~"[The Criminal District Court of Galveston and Harris Counties shall continue with the district jurisdiction and organization now existing by law until otherwise provided by law.]~~

"The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto."

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1 ~~majority of whom shall constitute a quorum, and the concurrence of~~
2 ~~three judges shall be necessary to a decision of said court].~~ The
3 ~~[Said]~~ Judges shall have the same qualifications and receive the
4 same salaries as the Associate Justices of the Supreme Court, ~~and~~
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7 ~~Presiding Judge and the Judges [---They]~~ shall be elected by the
8 qualified voters of the state at a general election and shall hold
9 their offices for a term of six years. In case of a vacancy in the
10 office of a Judge of the Court of Criminal Appeals, the Governor
11 shall, with the advice and consent of the Senate, fill said vacancy
12 by appointment until the next succeeding general election.

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 14 ~~until their successors are elected and qualified. Said Judges~~
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 26 under such regulations as may be prescribed by law.

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 2 regarding criminal law matters, the [The] Court of Criminal Appeals
 3 and the Judges thereof shall have the power to issue the writs
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 5 certiorari, and [~~under such regulations as may be prescribed by~~
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 7 [~~enforce~~] its [~~own~~] jurisdiction or enforce its judgments. The
 8 court [~~Court of Criminal Appeals~~] shall have the power upon
 9 affidavit or otherwise to ascertain such matters of fact as may be
 10 necessary to the exercise of its jurisdiction.

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 12 business at any time during the year and each term shall begin and
 13 end with each calendar year [~~from the first Monday in October to~~
 14 ~~the last Saturday in September in each year, at the State Capitol~~].
 15 The Court of Criminal Appeals shall appoint a clerk of the court
 16 who shall give bond in such manner as is now or may hereafter be
 17 required by law, and who shall hold his office for a term of four
 18 years unless sooner removed by the court for good cause entered of
 19 record on the minutes of said court.

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 21 office at the time when this Amendment takes effect shall continue
 22 in office for the term of his appointment."

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 26 this amendment takes effect remain judges of the court of criminal

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3 constitution as it now exists and until his successor shall have
4 been duly qualified.

5 (2) Each of the two members of the commission of appeals in
6 aid of the court of criminal appeals as constituted under Section
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8 1971, as amended (Article 1811e, Vernon's Texas Civil Statutes),
9 who are in office at the time this amendment takes effect, shall
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12 years, beginning on January 1, 1978, and until his successor shall
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15 and shall inform the governor of such designation within 30 days of
16 the effective date of this amendment.

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21 shall be nominated to the senate in the manner of appointments made
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12 criminal appeals to nine judges, and permitting the court to sit in
13 panels of three judges."

14 Sec. 7. If adopted, the constitutional amendment proposed in
15 this resolution becomes effective on January 1, 1978.

S.J.R. No. 18

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 18 was adopted by the senate on March 1, 1977, by the following vote: Yeas 28, Nays 3; May 16, 1977, senate concurred in house amendment by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.J.R. No. 18 was adopted by the house, with amendment, on May 11, 1977, by the following vote: Yeas 125, Nays 16, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

MAY 1 7 77

S.J.R. No. 18

SENATE JOINT RESOLUTION

proposing an amendment to Article V of the Texas Constitution to provide for a court of criminal appeals with nine judges and to permit the court to sit in panels of three judges.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Article V, Section 1 of the Texas Constitution, be amended to read as follows:

"Section 1. JUDICIAL POWER; COURTS IN WHICH VESTED. The judicial power of this State shall be vested in one Supreme Court, ~~in one Court of Criminal Appeals,~~ in Courts of Civil Appeals, ~~[in a Court of Criminal Appeals]~~ in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

~~"[The Criminal District Court of Galveston and Harris Counties shall continue with the district jurisdiction and organization now existing by law until otherwise provided by law.]~~

"The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto."

Sec. 2. That Article V, Section 4 of the Texas Constitution, be amended to read as follows:

"Section 4. COURT OF CRIMINAL APPEALS; JUDGES. The Court of Criminal Appeals shall consist of eight Judges and one Presiding Judge ~~[five Judges, one of whom shall be Presiding Judge, a~~

1 ~~majority of whom shall constitute a quorum, and the concurrence of~~
2 ~~three judges shall be necessary to a decision of said court].~~ The
3 [Said] Judges shall have the same qualifications and receive the
4 same salaries as the Associate Justices of the Supreme Court, and
5 the Presiding Judge shall have the same qualifications and receive
6 the same salary as the Chief Justice of the Supreme Court. The
7 Presiding Judge and the Judges [~~---They~~] shall be elected by the
8 qualified voters of the state at a general election and shall hold
9 their offices for a term of six years. In case of a vacancy in the
10 office of a Judge of the Court of Criminal Appeals, the Governor
11 shall, with the advice and consent of the Senate, fill said vacancy
12 by appointment until the next succeeding general election.

13 "For the purpose of hearing cases, the Court of Criminal
14 Appeals may sit in panels of three Judges, the designation thereof
15 to be under rules established by the court. In a panel of three
16 Judges, two Judges shall constitute a quorum and the concurrence of
17 two Judges shall be necessary for a decision. The Presiding Judge,
18 under rules established by the court, shall convene the court en
19 banc for the transaction of all other business and may convene the
20 court en banc for the purpose of hearing cases. The court must sit
21 en banc during proceedings involving capital punishment and other
22 cases as required by law. When convened en banc, five Judges shall
23 constitute a quorum and the concurrence of five Judges shall be
24 necessary for a decision. The Court of Criminal Appeals may
25 appoint Commissioners in aid of the Court of Criminal Appeals as
26 provided by law.

1 ~~"[The Judges of the Court of Criminal Appeals who may be in~~
2 ~~office at the time when this Amendment takes effect shall become~~
3 ~~Judges of the Court of Criminal Appeals and continue in office~~
4 ~~until the expiration of the term of office for which each has been~~
5 ~~elected or appointed under the present Constitution and laws of~~
6 ~~this state, and until his successor shall have been elected and~~
7 ~~qualified.~~

8 ~~"The two members of the Commission of Appeals in aid of the~~
9 ~~Court of Criminal Appeals who may be in office at the time when~~
10 ~~this Amendment takes effect shall become Judges of the Court of~~
11 ~~Criminal Appeals and shall hold their offices, one for a term of~~
12 ~~two years and the other for a term of four years, beginning the~~
13 ~~first day of January following the adoption of this Amendment and~~
14 ~~until their successors are elected and qualified. Said Judges~~
15 ~~shall by agreement or otherwise designate the incumbent for each of~~
16 ~~the terms mentioned.~~

17 ~~"The Governor shall designate one of the five Judges as~~
18 ~~Presiding Judge and at the expiration of his term and each six~~
19 ~~years thereafter a Presiding Judge shall be elected.]"~~

20 Sec. 3. That Article V, Section 5 of the Texas Constitution,
21 be amended to read as follows:

22 "Section 5. JURISDICTION OF COURT OF CRIMINAL APPEALS; TERMS
23 OF COURT; CLERK. The Court of Criminal Appeals shall have
24 appellate jurisdiction coextensive with the limits of the state in
25 all criminal cases of whatever grade, with such exceptions and
26 under such regulations as may be prescribed by law.

1 ~~"Subject to such regulations as may be prescribed by law,~~
2 ~~regarding criminal law matters, the~~ [The] Court of Criminal Appeals
3 and the Judges thereof shall have the power to issue the writs
4 [write] of habeas corpus, ~~mandamus, procedendo, prohibition,~~
5 ~~certiorari,~~ and ~~[under such regulations as may be prescribed by~~
6 ~~law, issue]~~ such other writs as may be necessary to protect
7 [enforce] its [own] jurisdiction ~~or enforce its judgments.~~ The
8 court [~~Court of Criminal Appeals~~] shall have the power upon
9 affidavit or otherwise to ascertain such matters of fact as may be
10 necessary to the exercise of its jurisdiction.

11 "The Court of Criminal Appeals may sit for the transaction of
12 business at any time ~~during the year and each term shall begin and~~
13 ~~end with each calendar year [from the first Monday in October to~~
14 ~~the last Saturday in September in each year, at the State Capitol].~~
15 The Court of Criminal Appeals shall appoint a clerk of the court
16 who shall give bond in such manner as is now or may hereafter be
17 required by law, and who shall hold his office for a term of four
18 years unless sooner removed by the court for good cause entered of
19 record on the minutes of said court.

20 "The Clerk of the Court of Criminal Appeals who may be in
21 office at the time when this Amendment takes effect shall continue
22 in office for the term of his appointment."

23 Sec. 4. The following transition provisions apply when this
24 amendment takes effect:

25 (1) The judges of the court of criminal appeals at the time
26 this amendment takes effect remain judges of the court of criminal

1 appeals and continue in office until the expiration of the term of
2 office for which each has been elected or appointed under the
3 constitution as it now exists and until his successor shall have
4 been duly qualified.

5 (2) Each of the two members of the commission of appeals in
6 aid of the court of criminal appeals as constituted under Section
7 1a, Chapter 462, Acts of the 62nd Legislature, Regular Session,
8 1971, as amended (Article 1811e, Vernon's Texas Civil Statutes),
9 who are in office at the time this amendment takes effect, shall
10 become a judge of the court of criminal appeals and shall hold his
11 office, one for a term of three years and one for a term of five
12 years, beginning on January 1, 1978, and until his successor shall
13 have been duly qualified. Said judges shall by agreement or
14 otherwise designate the incumbent for each of the terms mentioned
15 and shall inform the governor of such designation within 30 days of
16 the effective date of this amendment.

17 (3) On or after January 1, 1978, the governor shall, with
18 the advice and consent of the senate, appoint two qualified persons
19 as judges of the court of criminal appeals. The judges appointed
20 by the governor shall hold office from the date of appointment and
21 shall be nominated to the senate in the manner of appointments made
22 during the recess of the senate as provided in Article IV, Section
23 12 of the Texas Constitution. Judges so appointed by the governor
24 shall hold office until the first general election occurring after
25 January 1, 1978, and until their successors are duly qualified.
26 Judges elected at the first general election occurring after

1 January 1, 1978, shall hold office for terms of six years beginning
2 January 1, 1979, and until their successors are duly qualified.

3 Sec. 5. Should the legislature enact legislation in
4 anticipation of the adoption of this amendment, such law shall not
5 be invalid by reason of its anticipatory character.

6 Sec. 6. The foregoing constitutional amendment shall be
7 submitted to a vote of the qualified electors of this state at an
8 election to be held on the first Tuesday after the first Monday in
9 November, 1977, at which election the ballots shall be printed to
10 provide for voting for or against the proposition: "The
11 constitutional amendment increasing the size of the court of
12 criminal appeals to nine judges, and permitting the court to sit in
13 panels of three judges."

14 Sec. 7. If adopted, the constitutional amendment proposed in
15 this resolution becomes effective on January 1, 1978.

S.J.R. No. 18

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 18 was adopted by the senate on March 1, 1977, by the following vote: Yeas 28, Nays 3; May 16, 1977, senate concurred in house amendment by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.J.R. No. 18 was adopted by the house, with amendment, on May 11, 1977, by the following vote: Yeas 125, Nays 16, one present not voting.

Chief Clerk of the House

Approved:

Date

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
.....4:30 P.M.....O'CLOCK

Governor

MAY 26 1977

Mark White

Secretary of State

Filed w/o signature
Effective: To be voted on 11-8-77 and
if adopted, to be effective 1-1-78.

By Meier
MEIER

proposing an amendment to the Texas Constitution to provide for a Supreme Court of Criminal Appeals with nine justices and to permit the court to sit in panels of three justices.

1-14-77 Filed with the Secretary of the Senate
JAN 17 1977 Read, referred to Committee on Jurisprudence
Reported favorably.
FEB 23 1977 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
Ordered not printed.
MAR 1 1977 Senate and Constitutional Rules to permit consideration suspended by unanimous consent
29 yeas, 1 nays.
To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of 29 yeas, 1 nays.
MAR 1 1977 Read second time amended and ordered engrossed.
MAR 1 1977 passed to third reading
Caption ordered amended to conform to body of bill.
MAR 1 1977 Senate and Constitutional 3-Day Rules suspended by vote of 29 yeas, 3 nays to place bill on third reading and final passage.
MAR 1 1977 Read third time and passed by a viva-voce vote
29 yeas, 3 nays.

OTHER ACTION:

Betty King
Secretary of the Senate

Mar 1977 Engrossed
Mar 1977 Sent to HOUSE

Patsy Spaw
ENGROSSING CLERK

MAR 2 1977

Received from
the Senate

Betty Murray
Chief Clerk, House of Representatives

MAR 3 1977 READ FIRST TIME
AND REFERRED TO COMMITTEE ON
Constitutional Amendments

APR 6 1977 Favorably as substituted
Reported unfavorably (As Amended), Sent to Printer 2:15pm

APR 8 1977 Printed And Distributed 10:01pm

APR 8 1977 Sent To Committee On Calendars 3:05pm

DATE MAY 11 1977

READ AND ADOPTED amended
Betty Murray
CHIEF CLERK
HOUSE OF REPRESENTATIVES

by record vote 125 yeas / 6 nays / 100

MAY 12 1977

RETURNED TO SENATE

MAY 12 1977 RETURNED with amendment
FROM HOUSE

MAY 16 1977

Senate concurred in House amend-
ments by the following vote: 32
yeas, 1 nays.

1977 APR -8 AM 10: 01

HOUSE OF REPRESENTATIVES